

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

## ARCH INSURANCE COMPANY

Plaintiff,

VS.

TRAVELERS INDEMNITY COMPANY, a Connecticut corporation; TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, a Connecticut corporation; TRAVELERS CASUALTY INSURANCE COMPANY OF AMERICA, a Connecticut corporation; PHOENIX INSURANCE COMPANY, a Connecticut corporation; AMERICAN STATES INSURANCE COMPANY, an Indiana corporation; AMERICAN FIRE AND CASUALTY COMPANY, a New Hampshire corporation; and LIBERTY MUTUAL INSURANCE COMPANY, a Massachusetts corporation.

No.

**NOTICE OF REMOVAL OF  
CIVIL ACTION UNDER  
28 U.S.C. § 1441(a)**

## Defendants.

**TO:** Clerk of the Court;  
**TO:** Arch Insurance Company, and Its Attorneys of Record;  
**AND TO:** American States Insurance Company  
**AND TO:** American Fire and Casualty Company  
**AND TO:** Liberty Mutual Insurance Company

**NOTICE IS HEREBY GIVEN** that Defendants Travelers Indemnity Company (hereinafter “TIC”), Travelers Indemnity Company of Connecticut (hereinafter “TICOC”), Travelers Casualty Insurance Company of America (hereinafter “TCICA”), and The Phoenix Insurance Company (hereinafter “Phoenix”) (collectively, “Travelers”), hereby removes to this Court the State-Court action described below:

## I. THE SUBJECT ACTION

1. On February 13, 2018, Plaintiff Arch Insurance Company (hereinafter “Arch”) filed a Complaint in the Superior Court of Washington for King County, which was assigned Case No. 18-2-04097-3. A Copy of the Complaint is attached as **Exhibit A** to this Notice.

## II. DIVERSITY OF CITIZENSHIP

2. Arch is a foreign insurance company organized under the laws of the State of Missouri, with its principal place of business located in the State of New Jersey. Upon information and belief, at all relevant times Arch transacted business in the State of Washington. For purposes of diversity, Arch is a citizen of the States of Missouri and New Jersey.

3. American Fire and Casualty Company (hereinafter "American Fire") is a foreign insurance company organized under the laws of the State of New Hampshire, with its principal place of business located in the State of Massachusetts. Upon information and belief, at all relevant times American Fire transacted business in the State of Washington. For purposes of diversity, American Fire is a citizen of the States of New Hampshire and Massachusetts.

4. Liberty Mutual Insurance Company (hereinafter "Liberty Mutual") is a foreign insurance company organized under the laws of the State of Massachusetts, with its principal place of business located in the State of Massachusetts. Upon information and belief, at all

1 relevant times Liberty Mutual transacted business in the State of Washington. For purposes of  
2 diversity, Liberty Mutual is a citizen of the State of Massachusetts.

3 5. American States Insurance Company (hereinafter "American States") is a foreign  
4 insurance company organized under the laws of the State of Indiana, with its principal place of  
5 business located in the State of Massachusetts. Upon information and belief, at all relevant  
6 times American States transacted business in the State of Washington. For purposes of  
7 diversity, American States is a citizen of the States of Indiana and Massachusetts.

8 6. TIC is a foreign insurance company organized under the laws of the State of  
9 Connecticut, with its principal place of business located in the State of Connecticut. At all  
10 material times hereto, TIC has transacted business in the State of Washington. For purposes of  
11 diversity, TIC is a citizen of the State of Connecticut.

12 7. TICOC is a foreign insurance company organized under the laws of the State of  
13 Connecticut, with its principal place of business located in the State of Connecticut. At all  
14 material times hereto, TICOC has transacted business in the State of Washington. For purposes  
15 of diversity, TICOC is a citizen of the State of Connecticut.

16 8. TCICA is a foreign insurance company organized under the laws of the State of  
17 Connecticut, with its principal place of business located in the State of Connecticut. At all  
18 material times hereto, TCICA has transacted business in the State of Washington. For purposes  
19 of diversity, TCICA is a citizen of the State of Connecticut.

20 9. Phoenix is a foreign insurance company organized under the laws of the State of  
21 Connecticut, with its principal place of business located in the State of Connecticut. At all  
22 material times hereto, Phoenix has transacted business in the State of Washington. For  
23 purposes of diversity, Phoenix is a citizen of the State of Connecticut.

### III. AMOUNT IN CONTROVERSY

10. In its Complaint, Arch alleges that it is entitled to contribution from Defendants in relation to expenses and defense costs which Arch allegedly incurred to defend the parties' mutual insured, Graham Contracting, LTD. ("Graham"), in an underlying lawsuit titled *6th and Denny, LLC v. Graham Contracting, Ltd.*, King County Superior Court, Cause No. 14-2-12793-6 SEA (the "Underlying Lawsuit").

11. Specifically, Arch seeks no less than \$26,856.08 from Travelers pursuant to one set of insurance policies issued by Travelers. Arch also seeks an additional \$26,856.08 from Travelers under a separate set of insurance policies that were issued by Travelers. In total, Arch seeks not less than \$53,712.16 from Travelers.

12. In addition, Arch seeks no less than \$34,335.13 in contribution from Liberty Mutual, American Fire, and/or American States pursuant to a set of insurance policies issued by one or more of these entities.

13. Arch also seeks an unspecified amount in contribution from Liberty Mutual and/or American Fire pursuant to another set of insurance policies issued by one or more of these entities.

14. As a result, Arch seeks recovery of not less than \$88,047.29 in this action.

15. The jurisdictional minimum for diversity jurisdiction may be satisfied by claims of general and specific damages, by attorney's fees, and by punitive damages. *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005); *Gibson v. Chrysler Corp.*, 261 F.3d 927, 946 (9th Cir. 2001); *Galt v. Scandinavia*, 142 F.3d 1150, 1155 – 56 (9th Cir. 1998).

16. Based on the alleged damages set forth above, the amount in controversy in this matter is in excess of the \$75,000 jurisdictional limitation.

#### IV. JURISDICTION

17. For purposes of determining jurisdiction under 28 U.S.C. § 1332, Plaintiff Arch is a citizen of the States of Missouri and New Jersey. None of the Defendants are citizens of either of these States. American Fire is a citizen of the States of New Hampshire and Massachusetts, Liberty Mutual is a citizen of the State of Massachusetts, American States is a citizen of the States of Indiana and Massachusetts, TIC is a citizen of the State of Connecticut, TICOC is a citizen of the State of Connecticut, TCICA is a citizen of the State of Connecticut, and Phoenix is a citizen of the State of Connecticut. There are no other parties to this action. Complete diversity therefore exists as Plaintiff Arch does not have the same State citizenship as any of the Defendants.

18. The amount in controversy exceeds \$75,000, excluding interests and costs.

19. This Court, therefore, has jurisdiction over this controversy under 28 U.S.C. § 1332 and 28 U.S.C. § 1441.

## V. TIMELINESS

20. Arch filed the Complaint on February 13, 2018. Travelers received the Complaint not earlier than February 16, 2018. This Notice of Removal, filed on March 15, 2018, is therefore timely under 28 U.S.C. § 1446.

## **VI. CONSENT OF THE OTHER DEFENDANTS**

21. No Defendant other than Travelers has appeared in the State Court proceeding from which this lawsuit is being removed. There are also no declarations of service in the State Court docket showing that any Defendant other than Travelers has been served. As a result, it is unnecessary for Travelers to obtain consent for removal from the other Defendants. *See 28 U.S.C. § 1446(b)(2)(A).*

## **VII. INTRADISTRICT ASSIGNMENT**

22. In accordance with LCR 101(e), the intradistrict assignment of this case to the United States District Court for the Western District of Washington is governed by LCR 3(d). LCR 3(d) states in pertinent part:

... Cases removed from state court will be initially assigned to the Seattle Division or Tacoma Division according to the county where the action is pending.

23. Based upon the filing of the State Court action in King County, the appropriate assignment upon removal is to the Seattle Division.

## **VIII. COPIES OF PROCESS, PLEADINGS, ORDERS, AND MOTIONS IN STATE COURT PROCEEDINGS**

24. In accordance with 28 U.S.C. §1446, attached to this notice as **Exhibits A** through **E** are true and correct copies of the Summons, Complaint, Case Information Cover Sheet and Notice of Appearance for Travelers. This is the entirety of filings in the King County State Court action to date. These documents include:

- A. Complaint;
- B. Case Schedule;
- C. Case Information Cover Sheet;
- D. Acceptance of Service;
- E. Notice of Appearance for Travelers.

25. Notice of this removal will be filed with the Clerk of the King County Superior Court and will be given to all other parties, in accordance with 28 U.S.C. § 1446.

1 DATED this 15th day of March, 2018.

2 LETHER & ASSOCIATES, PLLC

3 /s/ Thomas Lether

4 Thomas Lether, WSBA #18089  
5 Kyle Silk-Eglit, WSBA #43177  
6 1848 Westlake Avenue N, Suite 100  
7 Seattle, WA 98109  
8 P: (206) 467-5444/F: (206) 467-5544  
9 tlether@letherlaw.com  
10 ksilkeglit@letherlaw.com  
11 *Attorneys for Defendants Travelers Indemnity*  
12 *Company, Travelers Indemnity Company of*  
13 *Connecticut, Travelers Casualty Insurance*  
14 *Company of America, and The Phoenix*  
15 *Insurance Company*

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies under the penalty of perjury under the laws of the State of Washington that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the parties mentioned below as indicated:

Christopher Carson  
732 N.W 19<sup>th</sup> Ave  
Portland, Oregon 97209-1302  
[ccarson@kilmerlaw.com](mailto:ccarson@kilmerlaw.com)  
*Attorney for Plaintiff*

By:  First Class Mail  E-mail  Legal Messenger

Dated this March 15, 2018 at Seattle, Washington.

/s/ Lina Wiese  
Lina Wiese | Paralegal